

The Examiner has now found one new reference, i.e. Wynn et al. and has rejected the claims which were previously agreed to be allowable. Prior to turning to the specifics of the Examiner's rejection, the Examiner should recall the essence of the agreement made on March 5, 2003. It was agreed that the art of record did not teach or suggest arbitrating a request made during row N for space in row N +1. It was tediously explained that the phrase "row N+1" does not mean any row that comes after row N. It means the row immediately following row N. This has now been explained more than three times. The amendment filed on March 6, 2003 made clear that the request made during row N for space in row N+1 was arbitrated during row N.

The present rejection of independent claims 1 and 13 is grounded on Gorshe (prior art of record at the time of the agreement) and the newly discovered reference, Wynn et al. Before turning to the details of the Examiner's stated rejection and the teachings of Wynn et al., it should be pointed out that in order to reject the claims, this new reference must teach or suggest arbitrating a request made in row N during row N for space in row N+1. It is respectfully submitted that the new reference does not supply this teaching and the Examiner has admitted this.

In stating his rejection, the Examiner has said that "Gorshe does not specifically disclose arbitrating the request and the request is made during row N for apace in row N+1....Wynn

discloses arbitrating the request is well known...Wynn does not specifically disclose the request is made during row N for space in row N+1." From this statement alone, it should be clear that the claimed invention is neither anticipated nor rendered obvious in view of the art of record.

The Examiner further bases his "new ground" for rejection on the assumption that "it is obvious that the request must be made during row N for space in row N+1 because based on the SONET standard, it is impossible to make a request and transmitting data in the same row of a frame." The SONET standard was included in the art of record at the time of the interview.

Whether or not it is possible to make a request and transmit data in the same row of a frame has no relation to making a request during row N for space in row N+1. Here again, the Examiner is interpreting the phrase "row N+1" to mean any row following row N. The distinction between this interpretation and the correct interpretation of "row N+1" was made in writing prior to the interview, several times during the interview, and again herein above. From the terms of the rejection it appears that the Examiner came away from the interview with the mistaken impression that the invention centered on the feature of arbitration in general.

Wynn et al. does not disclose a request made in row N is for access in row N+1 or that the request is arbitrated during the same row that it is made. These are the key features which distinguish the claims from the prior art. The Examiner's new rejection assumes that these features are known from the SONET standard, but it was agreed during the interview that these features were not obvious over the art of record. The art of record at that time included the SONET standard as it was referenced in the instant specification and in prior art patents cited by the Examiner. If the claims were patentable over the SONET standard then, the addition of Wynn et al. as grounds for rejection does not affect the patentability of the claims.

Since the independent claims have not been properly rejected it is not necessary to address the Examiner's rejections of the dependent claims.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested.

It is respectfully and earnestly requested that the Examiner contact the Applicant's attorney by telephone prior to issuing any paper other than a Notice of Allowance. It is believed that the Examiner is misunderstanding the significance of the term "row

N+1" and that a telephone interview may help to clarify what the claims mean.

When the claims are indicated as allowed over the art, the Applicant will reconsider the need to file a terminal disclaimer.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David P. Gordon".

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